

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STEVE ROBERT DURAN,

Applicant,

v.

CIV 10-0743 JB/GBW

ERASMO BRAVO, Warden,
Guadalupe County Correctional
Facility, and GARY KING, New Mexico
Attorney General,

Respondents.

ORDER DENYING MOTION FOR EVIDENTIARY HEARING

THIS MATTER is before the Court on Petitioner's Motion for an Evidentiary Hearing. *Doc. 16.*

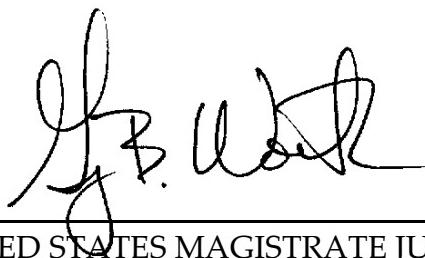
In a habeas proceeding, if the prisoner has developed a claim, a hearing is appropriate where the allegations, "if true, would entitle [the prisoner] to federal habeas relief." *Schrivo v. Landrigan*, 550 U.S. 465, 474 (2007). Consistent with this standard, "an evidentiary hearing is unnecessary if the claim can be resolved on the record." *Anderson v. Att'y Gen. of Kan.*, 425 F.3d 853, 859 (10th Cir.2005).

On May 26, 2011, the undersigned filed Proposed Findings and Recommended Disposition ("PFRD"). *Doc. 31.* In the PFRD, the undersigned concludes that the Petition

can be resolved on the record. *Id.* As such, no evidentiary hearing is necessary.

The Court notes that Petitioner has filed 301 pages of objections to the PFRD. If, after a review of those objections, the Court concludes that an evidentiary hearing is necessary, one will be ordered. However, at this time, the Motion for Evidentiary Hearing is hereby denied.

IT IS SO ORDERED.



UNITED STATES MAGISTRATE JUDGE